

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Applicant: CHHEDA et al. Patent Application
Application No.: 10/764,181 Group Art Unit: 3746
Filed: January 23, 2004 Examiner: Hamo, Patrick

For: REDUNDANT FAN SYSTEM IN A TURBO COOLER ASSEMBLY

REPLY BRIEF

In response to the Examiner's Answer mailed on February 25, 2009, Appellants respectfully submit the following remarks.

REMARKS

Appellants are submitting the following remarks in response to the Examiner's Answer.

In these remarks, Appellants are addressing certain arguments presented in the Examiner's Answer. While only certain arguments are addressed in this Reply Brief, this should not be construed that Appellants agree with the other arguments presented in the Examiner's Answer.

Response to Response to Argument to Regarding Rejection of Claims 1, 3, 18 and 19 under 35 U.S.C. §102(b) in Examiner's Answer

Appellants understand the Examiner's Answer to assert that Winick anticipates "a duct system for conveying said first air flow and said second air flow to at least one heat sink" as claimed. Appellants respectfully maintain that Winick does not anticipate the claimed embodiments because Winick does not satisfy a *prima facie* case of anticipation.

In support of the assertion that Winick disclose the claimed embodiments, the Examiner's Answer states "[h]owever, the arrows in fig. 1 are not dispositive and absent any specific written disclosure, may reasonably be deemed merely illustrative" (emphasis added; Examiner's Answer; page 8, line 22, through page 9, line 1).

As noted in the Appeal Brief, Appellants submit that MPEP §2131 provides:

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). ... "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim.

Appellants respectfully submit that Winick does not disclose “a duct system for conveying said first air flow and said second air flow to at least one heat sink” as claimed. In particular, Appellants respectfully submit that Winick does not show the identical invention in as complete detail as contained in the claim, and that the elements of Winick are not arranged as required by the claims. Therefore, Appellants respectfully submit that Winick does not satisfy a *prima facie* case of anticipation of Claims 1 and 18.

Moreover, Appellants respectfully submit that the Examiner’s Answer appears to be applying an obviousness-type analysis to the rejection of Claims 1, 3, 18 and 19. For instance, the anticipation standard requires that “each and every element as set forth in the claim” be found in a single piece of asserted art. However, in arguing that arrows in fig. 1 are not dispositive and absent any specific written disclosure, may reasonably be deemed merely illustrative” (emphasis added; Examiner’s Answer; page 8, line 22, through page 9, line 1), the Examiner’s Answer appears to be rebutting an obviousness-type teaching away from argument. Moreover, it appears as if the Examiner’s Answer is acknowledging that Winick does not anticipate “a duct system for conveying said first air flow and said second air flow to at least one heat sink” as claimed, and thus is applying an obviousness-type rejection by arguing that “the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains” as required under 35 U.S.C. §103(a).

Appellants respectfully maintain that Winick does not disclose “a duct system for conveying said first air flow and said second air flow to at least one heat sink” as claimed.

Therefore, Appellants respectfully submit that Winick does not satisfy a *prima facie* case of anticipation of Claims 1 and 18.

Response to Response to Argument to Regarding Rejection of Claims 1-9, 11-16 and 18-22 under 35 U.S.C. §103(a) in Examiner's Answer

Appellants understand the Examiner's Answer to assert that "Appellant seems to be arguing that which is not claimed. A duct *system* is claimed for guiding air flow to *at least one heat sink*" (emphasis in original; Examiner's Answer; page 11, lines 1-3).

Appellants respectfully note that independent Claim 11 recites, in part, "a ducting system for conveying air flow from each of said fans to a heat dissipating device" (emphasis added), and that independent Claim 18 recites, in part, "configuring a duct to guide air flow from said plurality of fans to a heat sink" (emphasis added).

Therefore, in combination with the arguments presented in the Appeal Brief, Appellants respectfully maintain that Kimura does not teach, describe or suggest "a ducting system for conveying air flow from each of said fans to a heat dissipating device" (emphasis added) as recited in independent Claim 11 and "configuring a duct to guide air flow from said plurality of fans to a heat sink" (emphasis added) as recited in independent Claim 18.

CONCLUSION

In view of the above remarks for reasons presented above and for reasons previously presented in the Appeal Brief, Appellants continue to assert that pending Claims 1, 3, 18 and 19 are not anticipated by the asserted art under 35 U.S.C. §102(b) and that Claims 1-22 are patentable over the asserted art under 35 U.S.C. §103(a).

Respectfully submitted,

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Dated: 04/24/2009

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